

Bonnie A. Hamilton, Esq. (SB 180502)  
 BLUESTONE ZUNINO & HAMILTON, LLP  
 50 Old Courthouse Square, Suite 401  
 Santa Rosa, CA 95404  
 Telephone: 707-526-4250  
 Facsimile: 707-526-0347  
[bonnie@bzhlegal.com](mailto:bonnie@bzhlegal.com)

Attorneys for Defendant Michael Yoder

UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

DANE ZEEN,

No. 3:17-cv-02056 LB

Plaintiff,

**Def's Motion No. 4:**

v.

COUNTY OF SONOMA, STEVE  
 FREITAS, MICHAEL YODER, CHARLES  
 BLOUNT, and DOES 1-20, inclusive,

MOTION IN LIMINE TO PRECLUDE  
 INTRODUCTION OF OTHER CLAIMS  
 AND LAWSUITS AGAINST COUNTY OF  
 SONOMA, STEVE FREITAS AND  
 DEPUTIES YODER AND BLOUNT

Defendants.

Pretrial Date: August 2, 2018  
 Time: 1:00 p.m.  
 Ctrm: C, 15<sup>th</sup> Floor  
 Trial: August 20, 2018

Defendant respectfully submits this motion in limine to exclude from trial any questioning, evidence (from news reports or otherwise) or testimony about claims made against the Sonoma County Sheriff's Department (County of Sonoma), Steve Freitas (Freitas) or Deputies Michael Yoder and Charles Blount involving their law enforcement duties that do not involve plaintiff. Such evidence is irrelevant, prejudicial and will confuse the sole issue to be decided in this trial: were plaintiff's constitutional rights violated through the unreasonable use of excessive force?

**FACTUAL BACKGROUND**

The County of Sonoma, the defendant's employer, is a large public entity; claims and lawsuits are a reality. However, to introduce allegations made against any of its employees, including Deputies Yoder and Blount, would consume undue time and cost; would extend the time for trial and would increase the number of witnesses to be called; and would introduce facts and evidence which

1 has no bearing on the claims made in this lawsuit by plaintiff. (Fed.R.Evid. 403.) During discovery  
 2 while there was still a *Monell* claim pending against the County, the plaintiff was provided a full  
 3 year's worth of videos from the County where force was used, resulting in a review of over one  
 4 hundred different videos. None involved Deputy Yoder.

5 In order for plaintiff to prove his claims, the evidence will require a showing that in this case,  
 6 excessive force was used by Deputy Yoder; the answer to this question cannot be gleaned from claims  
 7 or complaints filed against any of the defendants in the past.

### 8 LEGAL ARGUMENT

9 Only relevant evidence is admissible. Fed.R.Evid. 401 defines "relevant evidence" as  
 10 evidence having any tendency to make the existence of any fact that is of consequence to the  
 11 determination of the action more probable or less probable than it would be without the evidence.  
 12 Evidence which is not relevant is not admissible. Fed.R.Evid. 402.

13 Even if "relevant," evidence is properly excluded if its probative value is substantially  
 14 outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by  
 15 considerations of undue delay, waste of time, or needless presentation of cumulative evidence.  
 16 Fed.R.Evid. 403; *Woods v. Lecureux*, 110 F.3d 1215, 1219 (6<sup>th</sup> Cir. 1997). This type of information  
 17 is routinely excluded on the grounds of undue prejudice and undue consumption of time. As to  
 18 Deputy Blount, the claim against him was dismissed for lack of evidence. Reference to any other calls  
 19 or incidents in the past related to Deputy Blount should not be permitted before this jury as unduly  
 20 prejudicial and irrelevant.

21  
 22 DATED: July 3, 2018

BLUESTONE ZUNINO & HAMILTON, LLP

23 By

Bonnie A. Hamilton

Attorneys for Defendant Michael Yoder

### PROOF OF SERVICE

I am employed in Sonoma County, California. I am over the age of 18 years and not a party to the within action. My business address is 50 Old Courthouse Square, Suite 401, Santa Rosa, CA 95404.

On **July 3, 2018**, I served the following document(s):

**Def's Motion No. 4: MOTION IN LIMINE TO PRECLUDE INTRODUCTION OF OTHER CLAIMS AND LAWSUITS AGAINST COUNTY OF SONOMA, STEVE FREITAS AND DEPUTIES YODER AND BLOUNT**

by placing a true copy thereof enclosed in a sealed envelope and/or served in the manner described below and addressed to:

**Attorneys for Plaintiff Dane Zeen:**

John Houston Scott, Esq.  
Lizabeth N. de Vries, Esq.  
Scott Law Firm  
1388 Sutter Street, Suite 715  
San Francisco, CA 94109  
Tel: (415) 561 -9601  
Fax: (415) 561-9609  
E-mail: [john@scottlawfirm.net](mailto:john@scottlawfirm.net)  
[liza@scottlawfirm.net](mailto:liza@scottlawfirm.net)

**Attorneys for Plaintiff Dane Zeen:**

Izaak D. Schwaiger, Esq.  
130 Petaluma Avenue, Suite 1A  
Sebastopol, CA 95472  
Tele: (707) 595-4414  
Fax: (707) 851-1983  
E-mail: [izaak@izaakschwaiger.com](mailto:izaak@izaakschwaiger.com)

XX **BY U.S. MAIL:** I caused such envelope to be deposited in the mail by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. The name and address of each person/firm to whom I mailed the documents is listed above.

     **BY HAND DELIVERY:** I caused such envelope to be delivered by hand to the addressee(s) designated above.

     **BY OVERNIGHT COURIER SERVICE:** I caused such envelope to be delivered via overnight courier services to the addressee(s) designated above.

XX **BY E-MAIL:** I transmitted electronically the listed documents(s) to the e-mail address(es) set forth on the attached list.

XX **FEDERAL:** I declare that I am employed in the office of a member of the bar of this court at whose direct this service was made.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on **July 3, 2018**, at Santa Rosa, California.

  
Tracy Kecskemeti

PROOF OF SERVICE